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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,210	10/24/2005	Denis Paquette	6461-04	8260
58388 7590 10/28/2008 GOWAN INTELLECTUAL PROPERTY 1075 NORTH SERVICE ROAD WEST SUITE 203 OAKVILLE, ON L6M-2G2 CANADA			EXAMINER BRADFORD, CANDACE L	
			ART UNIT 3634	PAPER NUMBER
			MAIL DATE 10/28/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/554,210

Applicant(s)

PAQUETTE, DENIS

Examiner

CANDACE L. BRADFORD

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/24/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CIS) Paper No(s)/Mail Date 10/24/05.
- 4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Regarding claim 1, the phrase "optionally" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d). Note that as written, examiner can consider claims 1-6, 8-9 as not including the accessory or any of its details.

Claim 16 provides for the use of the safety restraint, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 16 is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Paterson (6036146). Paterson discloses a safety restraint device 28, comprising a base rod 25, having attachment devices for temporarily affixing said base rod to a frame member; one or more releasable mounting devices 28, for receiving and attaching at least one of a variety of accessories to said base rod, and optionally, at least one accessory 19, for attachment to said releasable mounting device.

Claim 2 is rejected under 35 U.S.C. 102(b) as being anticipated by Paterson (6036146). Paterson discloses a safety restraint device as claimed in Claim 1 wherein said accessory 19, is one or more removable, interchangeable devices which can be added or removed from the releasable mounting device 28.

Claim 3 is rejected under 35 U.S.C. 102(b) as being anticipated by Paterson (6036146). Paterson discloses a safety restraint device as claimed in Claim 1 wherein said accessory 19, comprises a winch assembly having a winch 37, a static line 11, operatively connected to the winch; and a mounting attachment for attaching said winch accessory to said releasable mounting device.

Claim 4 is rejected under 35 U.S.C. 102(b) as being anticipated by Paterson (6036146). Paterson discloses a safety restraint device as claimed in Claim 3 wherein

said winch comprises a locking mechanism 49, so that the static line 11, can be drawn tight using said winch 37, and maintained in a tightened condition, as best seen in Figure 1.

Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Paterson (6036146). Paterson discloses a safety restraint device as claimed in Claim 4 wherein said locking mechanism 49, is a ratchet assembly, as best seen in Figure 2.

Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Paterson (6036146). Paterson discloses a safety restraint device as claimed in Claim 1 comprising two releasable mounting devices 28,22 for receiving and attaching at least one of a variety of accessories 19, to said base rod 25.

Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Paterson (6036146). Paterson discloses a safety restraint device as claimed in Claim 1 wherein said accessory is a winch assembly 37, a ladder, a light, a sign, a radio, a handrail, a platform, or a suspended platform.

Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Paterson (6036146). Paterson discloses a safety restraint device as claimed in Claim 1 wherein said accessory is attached to said releasable mounting device using a lock pin 49.

Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Paterson (6036146). Paterson discloses an accessory for use with a safety restraint device as claimed in Claim 1 comprising a winch assembly 37, a ladder, a light, a sign, a radio, a handrail, a platform, or a suspended platform.

Claim 13 is rejected under 35 U.S.C. 102(b) as being anticipated by Paterson (6036146). Paterson discloses an accessory as claimed in Claim 12 comprising a winch assembly, having a winch 37, a static line 11, operatively connected to said winch, and having a mounting attachment for attaching said accessory to said safety restraint device.

Claim 16 is rejected under 35 U.S.C. 102(b) as being anticipated by Paterson (6036146). Paterson discloses use IN SOME UNSPECIFIED MANNER of a safety restraint device as claimed in Claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Paterson (6036146). Paterson fails to disclose A safety restraint device as claimed in Claim 2 wherein said accessory comprises 2 or 3 winch assemblies. It has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. Bemis Co.*, 193 USPQ 8.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Paterson (6036146). Paterson fails to disclose a safety restraint device as claimed in Claim 1 wherein said attachment devices are two C-shaped or V-shaped attachment brackets. It has been held that mere duplication and of the essential working parts of a

device involves only routine skill in the art. *St. Regis Paper Co. Bemis Co.*, 193 USPQ

8. It is further obvious that the shape of the attachment device is strictly design choice and based from the type of accessory that is being restrained.

Claims 11, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paterson (6036146). Paterson further discloses a safety restraint device as claimed in Claim 10 additionally comprising a threaded locking rod 27, operatively connected to at least one of said attachment brackets 32, and a crank 42, connected to one end of said locking rod, so that turning of the crank results in relative movement of said attachment brackets. It is further obvious in view of the structure as advanced above to use the safety restraint system as claimed i.e., attaching a first and second base rod and frame members, mounting and extending a static line, while producing no new and unexpected results

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CANDACE L. BRADFORD whose telephone number is (571)272-8967. The examiner can normally be reached on 9am until 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on (571) 272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KATHERINE W MITCHELL/
Supervisory Patent Examiner, Art
Unit 3634

Candace L. Bradford
Patent Examiner
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October 8, 2008